

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

UNITED STATES OF AMERICA,

v.

SCOTT HOWARD JENKINS, *et al.*,

Defendants.

CASE No. 3:23-cr-00011

ORDER

JUDGE NORMAN K. MOON

The Government and Defendants Scott Jenkins, Rick Rahim, Frederic Gumbinner, and James Metcalf jointly move for a continuance of trial. Dkt. 50.

The Speedy Trial Act (the “Act”) “generally requires that a criminal trial begin within seventy days of the filing of an information or indictment or the defendant’s initial appearance.” 18 U.S.C. § 3161(c)(1). But “[t]o allow for necessary flexibility in scheduling, the Act provides that certain delays may be excluded from the seventy-day count, including delays where the district court finds ‘that the ends of justice served by . . . granting . . . [a] continuance outweigh the best interests of the public and the defendant in a speedy trial.’” *See United States v. Henry*, 538 F.3d 300, 303 (4th Cir. 2008) (quoting 18 U.S.C. § 3161(h)(7)(A)). The Court must set forth its reasons for finding that a continuance is warranted under the Act’s exception. *Id.*

The Court finds that a continuance is warranted, considering the factors listed in 18 U.S.C. § 3161(h)(7)(B) of the Act, and for the reasons counsel has provided: namely, to conduct a review of discovery, assess potential dispositions, and prepare for trial. Dkt. 50. Section 3161(h)(7)(B)(iv) of the Act provides a court can consider “[w]hether the failure to grant such a

continuance . . . would deny counsel for the defendant or the attorney for the Government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.” 18 U.S.C. § 3161(h)(7)(B)(iv). The Court finds these circumstances would so deny the time necessary for effective preparation, accounting for due diligence, if the Court did not grant a continuance.

In short, the Court finds that “the ends of justice served by the granting of such continuance outweigh the best interests of the public and the defendant in a speedy trial.” 18 U.S.C. § 3161(h)(7)(A).

For the foregoing reasons, the joint motion to continue trial, Dkt. 50, is **GRANTED**, and the Court **ORDERS** that the trial scheduled for September 7, 2023 be **CONTINUED** to May 13, 2024. The period between the previous and new trial dates will be excluded from the calculation of time under the Speedy Trial Act.

It is so **ORDERED**.

The Clerk of the Court is hereby directed to send this Order to all counsel of record.

Entered this 10th day of August, 2023.



NORMAN K. MOON
SENIOR UNITED STATES DISTRICT JUDGE